

Appl. No. : 09/870,619  
Filed : May 31, 2001

### REMARKS

In response to the Office Action mailed December 9, 2003, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the above amendments and the following comments.

#### Interview Summary

Applicant would like to thank Examiner Corrigan for the courteous telephone interview extended to Applicant's representative, Rabinder Narula, on Tuesday, March 9, 2004.

During the interview, independent Claim 37 and its rejection under 35 U.S.C. § 102(b) as anticipated by Nakamura (U.S. Patent No. 5,797,363) were discussed. The principle argument presented is that Nakamura does not disclose a crankshaft that extends in a generally vertical direction and "a first hydraulic passage and a second hydraulic passage" that do not extend "below a generally horizontal plane that contains a central axis that extends through [a] control valve." Applicant also respectfully disagreed with the Examiner statement that "what is above or below a horizontal plane can be arbitrarily determined." (Page 7 of the December 9, 2004 Office Action) Nevertheless, to advance prosecution, Applicant suggested amending Claim 37 to recite that the setting section of the variable valve timing mechanism is positioned above the generally horizontal plane.

An agreement was not reached during the interview.

#### Allowable Subject Matter

The Examiner has indicated that Claims 1-3, 5-19, 21, 23-27, 30-36 and 48-59 are in condition for allowance.

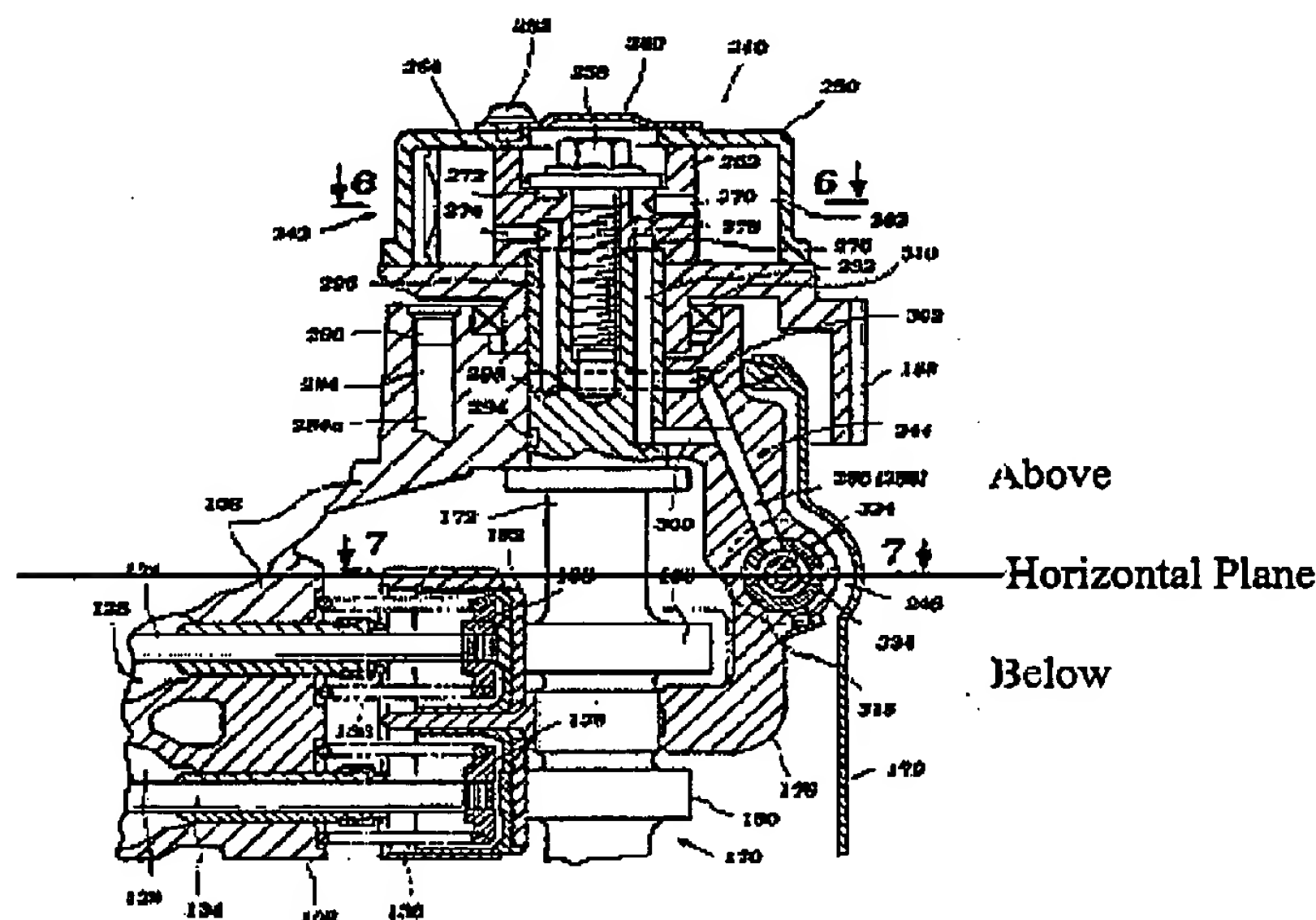
#### Claim Rejections

As mentioned above, Claims 37-47 stand rejected under 35 U.S.C. § 102(b) as anticipated by Nakamura (U.S. Patent No. 5,797,363). Applicant respectfully disagrees with the grounds for rejecting Claims 37-47. Nevertheless, to advance prosecution, Applicant has amended Claim 37 such that it now recites, in part, "the first hydraulic passage and the second hydraulic passage not extending below a generally horizontal plane that lies normal to the axis of the camshaft and that contains a central axis that extends through the control valve, wherein the valve is positioned

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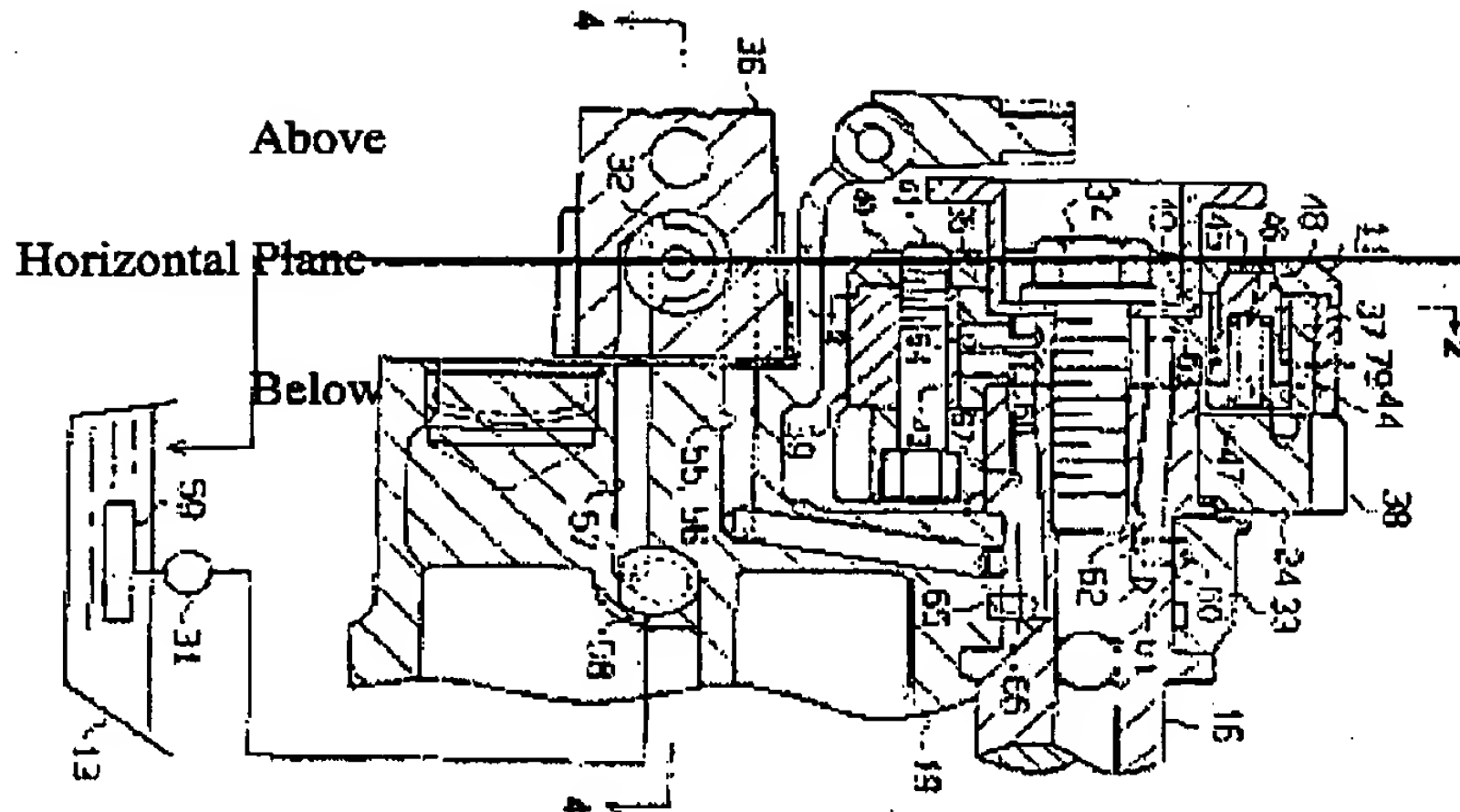
below the generally horizontal plane and the setting section is positioned above the generally horizontal plane."

Claim 37 is directed to the embodiment illustrated in Figure 5 of the present application which is provided below for the Examiner's convenience.



In contrast, as shown in Figure 1, Nakumura disclosed an engine with a variable valve timing system in which the supply passages 55, 56, extend below a generally horizontal plane that contains a central axis that extends through the control valve 32 and wherein the setting section 11 and the valves 18 are also positioned below the generally horizontal plane that contains the central axis.

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Accordingly, the cited art does not disclose a "the first hydraulic passage and the second hydraulic passage not extending below a generally horizontal plane that lies normal to the axis of the camshaft and that contains a central axis that extends through the control valve, wherein the valve is positioned below the generally horizontal plane and the setting section is positioned above the generally horizontal plane." For at least this reason, Applicant respectfully submits that Claim 37 in condition for allowance. Claims 38-40 and 41-47 (as amended) are also in condition for allowance because, *inter alia*, they depend either directly or indirectly upon allowable Claim 37.

#### CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

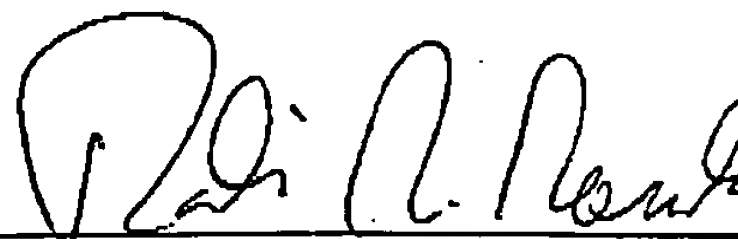
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Respectfully submitted,

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